

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

|  |   |   |
|--|---|---|
| Applicant's or agent's file reference<br>069547.0239   | <b>FOR FURTHER ACTION</b>   |   |
|  | See item 4 below  |   |
| International application No.<br>PCT/US2005/003163   | International filing date ( <i>day/month/year</i> )<br>31 January 2005 (31.01.2005) | Priority date ( <i>day/month/year</i> )<br>29 January 2004 (29.01.2004) |
| International Patent Classification (8th edition unless older edition indicated)<br>See relevant information in Form PCT/ISA/237 |   |   |
| Applicant<br><b>ESPEED, INC</b>  |   |   |

|   |                                     |   |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
|---|-------------------------------------|---|---------------------|--------------------------|------------|----------|--------------------------|-------------|--|-------------------------------------|------------|----------------------------|-------------------------------------|-----------|---|--------------------------|------------|-------------------------|--------------------------|-------------|--|--------------------------|--------------|---|
| <p>1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>   |                                     |   |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <p>3. This report contains indications relating to the following items:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15px; text-align: right; padding-right: 5px;"><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;"><input checked="" type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> <p>4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).</p> | <input checked="" type="checkbox"/> | Box No. I   | Basis of the report | <input type="checkbox"/> | Box No. II | Priority | <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | <input checked="" type="checkbox"/> | Box No. IV | Lack of unity of invention | <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | <input type="checkbox"/> | Box No. VI | Certain documents cited | <input type="checkbox"/> | Box No. VII | Certain defects in the international application | <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |
| <input checked="" type="checkbox"/>   | Box No. I                           | Basis of the report   |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>  | Box No. II                          | Priority  |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>  | Box No. III                         | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input checked="" type="checkbox"/>   | Box No. IV                          | Lack of unity of invention  |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input checked="" type="checkbox"/>   | Box No. V                           | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>  | Box No. VI                          | Certain documents cited   |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>  | Box No. VII                         | Certain defects in the international application  |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>  | Box No. VIII                        | Certain observations on the international application   |                     |                          |            |          |                          |             |  |                                     |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |

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|---|--|
|   | Date of issuance of this report<br>23 January 2007 (23.01.2007)              |
| The International Bureau of WIPO<br>34, chemin des Colombettes<br>1211 Geneva 20, Switzerland<br><br>Facsimile No. +41 22 338 82 70 | Authorized officer<br><br><b>Dorothée Mülhausen</b><br>e-mail: pt01@wipo.int |

From the  
INTERNATIONAL SEARCHING AUTHORITY

PATENT COOPERATION TREATY

To:  
SAMIR A. BHAVSAR  
BAKER BOTTS LLP  
2001 ROSS AVENUE, SUITE 600  
DALLAS, TX 75201

PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference  
069547.0239

Date of mailing  
(day/month/year)  
**FOR FURTHER ACTION**

**04 JAN 2007**

See paragraph 2 below

International application No.  
PCT/US05/03163

International filing date (day/month/year)  
31 January 2005 (31.01.2005)

Priority date (day/month/year)  
29 January 2004 (29.01.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC: G06Q 40/00( 2007.01)

USPC: 705/37

Applicant

ESPEED, INC.

1. This opinion contains indications relating to the following items:

|                                     |              |  |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the opinion   |
| <input type="checkbox"/>            | Box No. II   | Priority   |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability   |
| <input checked="" type="checkbox"/> | Box No. IV   | Lack of unity of invention   |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited  |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application   |
| <input type="checkbox"/>            | Box No. VIII | Certain observations on the international application  |

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later. For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US  
Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
Facsimile No. (571) 273-3201

Date of completion of this opinion  
09 November 2006 (09.11.2006)

Authorized officer

Nirayanswamy Subramanian

Telephone No. 571-272-6751

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US05/03163

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

the international application in the language in which it was filed  
 a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

a sequence listing  
 table(s) related to the sequence listing

b. format of material

on paper  
 in electronic form

c. time of filing/furnishing

contained in the international application as filed.  
 filed together with the international application in electronic form.  
 furnished subsequently to this Authority for the purposes of search.

3.  In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US05/03163

**Box No. IV Lack of unity of invention**

1.  In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has, within the applicable time limit:  
 paid additional fees  
 paid additional fees under protest and, where applicable, the protest fee  
 paid additional fees under protest but the applicable protest fee was not paid  
 not paid additional fees
2.  This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is  
 complied with  
 not complied with for the following reasons:  
See the lack of unity section of the International Search Report (Form PCT/ISA/210)
4. Consequently, this opinion has been established in respect of the following parts of the international application:  
 all parts.  
 the parts relating to claims Nos. 1-9

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/US05/03163

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**I. Statement**

|                               |                    |     |
|-------------------------------|--------------------|-----|
| Novelty (N)                   | Claims <u>1-9</u>  | YES |
|                               | Claims <u>NONE</u> | NO  |
| Inventive step (IS)           | Claims <u>NONE</u> | YES |
|                               | Claims <u>1-9</u>  | NO  |
| Industrial applicability (IA) | Claims <u>1-9</u>  | YES |
|                               | Claims <u>NONE</u> | NO  |

**2. Citations and explanations:**

Claims 1-9 lack an inventive step under PCT Article 33(3) as being obvious over Keith (US Pub. No. 2001/0051909 A1).

Claims 1-9. Keith teaches a system for controlling the disclosure of a trading order comprises a memory and a processor (See Figure 1). The memory stores disclosure policies associated with market centers (See Paragraphs 43-51 and 145-148). The processor receives a trading order for a trading product that specifies a total quantity of the trading product (See Paragraphs 220-226, 405) and a maximum disclosure quantity of the trading product (See Paragraphs 541-546). The trading order is associated with a particular market center (See Paragraphs 530-538). The processor then routes the trading order to the particular market center according to the disclosure policy associated with the particular market center (See Paragraphs 201-206).